

APPEAL NO. 041295
FILED JULY 22, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 11, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 12th quarter. The appellant (carrier) appealed, asserting that the claimant's evidence was legally and factually insufficient to support a determination of entitlement to SIBs for the 12th quarter. The claimant responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the qualifying period for the 12th quarter was from August 2 through October 31, 2003, and that the Texas Workers' Compensation Commission (Commission) received the report of the Commission-appointed designated doctor at least by September 23, 2003. The designated doctor concluded that the claimant's medical condition has not improved sufficiently to allow her to return to work. In finding for the claimant, the hearing officer gave the designated doctor's opinion presumptive weight. On appeal, the carrier essentially argues that the claimant had been determined to be not entitled to SIBs in previous quarters due to having some ability to work; that her medical condition has remained essentially unchanged from those quarters; that the claimant failed to provide a sufficient narrative report; and that the claimant's inability to work, if any, is related to a noncompensable medical condition.

When the designated doctor is properly appointed under Section 408.151 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.110 (Rule 130.110) to consider the issue of whether the claimant's medical condition has improved sufficiently to allow the claimant to return to work, the procedures under Section 408.151 and Rule 130.110 control over the provisions of Rule 130.102 pertaining to entitlement to SIBs. Texas Workers' Compensation Commission Appeal No. 022604-s, decided November 25, 2002. Use of the designated doctor for return to work determinations gives presumptive weight to the designated doctor's opinion over other evidence normally used to decide the Rule 130.102(d)(4) issues of inability to work, narrative report, and "other records." Appeal No. 022604-s, *supra*. The hearing officer did not err in applying the law to the facts in this case.

We have reviewed the complained-of determinations and conclude that the issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination is supported by the record and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY A. LANGLEY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75265.**

Daniel R. Barry
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Veronica L. Ruberto
Appeals Judge